

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

QUESTION

An attorney who is a full-time house counsel to a corporation employed on a salary basis has inquired as to the ethical limitations on his activities as a lawyer.

OPINION

A full-time house counsel is entitled to render legal services to the corporation without limitation. Also, with the approval of his employer and in the absence of conflicts of interest, he may render legal services to friends and other outside clients provided he is rendering such services as an independent lawyer, is not supplying such services as an employee of the corporation and is not compensated by the corporation for such services.

As regards services rendered to employees of the corporation, the lawyer may, with his employer's approval and in the absence of conflicts of interest, serve them as clients as in the case of outsiders provided he is not paid by the corporation for rendering such services. (See N.Y.State 53 and 53a.)

The inquiring attorney has also asked whether he may render legal services to another corporation with which his employer has a contract for supplying such services. This would violate Canons 35 and 47 which forbid the use of an intermediary for the rendering of legal services. This would not preclude the lawyer from serving the other corporation directly as a separate client for which he would be separately compensated, provided his employer approved and no conflict of interest existed.

The lawyer's relationship with his clients must be direct and personal. His compensation must come from his client and not from an intermediate agency and his services must not be supplied by contract or otherwise as the services of his corporate employer.

Opinion 85 - 7/15/68 (14-68)

Topic: LETTERHEAD, ANNOUNCEMENTS,
PATENT ATTORNEY
Digest: DESIGNATION AS PATENT
ATTORNEY ON LETTERHEAD.
ANNOUNCEMENTS AND THEIR
DISTRIBUTION.
Canons: Former Canons 27, 46

QUESTION

The inquirer is a member of the New York State Bar, an associate in a firm composed of two partners and himself, and is soon to be admitted to practice before the United States Patent Office. The firm is located in the Capital District. He wishes the Committee to advise him as to:

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(3) The distribution of the announcement to non-lawyers should be governed by the policy cited, for example, in Informal Opinion No. 618 11/23/62 of the American Bar Association's Standing Committee which indicates that notices of this nature:

"...[M]ay be sent to former clients, and to any other person with whom the personal relations of the lawyer are such as to make it clear that they would be interested in knowing of the matters covered by the notice (but not to persons with whom the lawyer had had no professional dealings or personal relations, and to whom the card would be merely a suggestion of employment)..."

As to lawyers the permissible scope of distribution is broader, and distribution to lawyers "over a wide area surrounding the Capital District", as the inquirer intends, would be proper. The New York Canon 46 does not limit the distribution of such notices to "local lawyers" as does Canon 46 of the American Bar Association. New York has adopted a more liberal view towards the distribution of announcements to lawyers on grounds that lawyers are not "...substantially influenced to employ other lawyers by announcements or impressed by their implications". See Joint Opinion of the Committee on Professional Ethics of the Association of the Bar of the City of New York (N.Y. City 686) and of the New York County Lawyers Association (N.Y. County 375) issued in 1947. The committee believes that this Joint Opinion states the New York rule that announcements may be sent to lawyers both known and unknown to the sender.

Opinion 86 - 7/16/68 (13-68)

Overruled (in part) by 331

Topic: SPECIALIZATION ANNOUNCEMENTS;
NOTICE TO ATTORNEYS

Digest: ANNOUNCEMENT OF LABOR RELATIONS LAW PRACTICE, BUT NOT REFERRING TO REPRESENTATION OF MANAGEMENT, IS PROPER.

Canons: Former Canons 27, 46

QUESTION

May a New York City firm mail an announcement to the membership of the New York State Bar Association reciting that the firm is "Specializing In The Representation of Management In LABOR RELATIONS LAW"?

OPINION

It is well recognized that the sending of announcements by lawyers to persons with whom they have "personal relations", advising of the opening or removal of their offices, the admission of new partners or similar news concerning themselves, does not constitute advertising or the solicitation of professional employment in violation of Canon 27. There has, however, been a difference of opinion among the Committees of the various Bar Associations with respect both to the permissible content of professional announcements and the persons to whom the